

# **Exhibit I**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re: )  
 )  
SECURITIES INVESTOR )  
PROTECTION CORPORATION, )  
 )  
Plaintiff-Applicant, )  
 )  
vs. ) 08-01789 (SMB)  
 )  
BERNARD L. MADOFF )  
INVESTMENT SECURITIES, LLC, )  
 )  
Defendant. )  
 )  
 )  
In re: )  
 )  
BERNARD L. MADOFF, )  
 )  
Debtor. )  
 )

Videotaped Deposition of BERNARD L.  
MADOFF, VOLUME I, taken on behalf of the Customers,  
before K. Denise Neal, Registered Professional  
Reporter and Notary Public, at the Federal  
Correctional Institution, 3000 Old Highway 75,  
Butner, North Carolina, on the 26th day of April,  
2017, commencing at 9:07 a.m.

\* \* \* \* \*

1 APPEARANCES OF COUNSEL:

2 On Behalf of the Customers:

3 HELEN DAVIS CHAITMAN, Esq.  
4 Chaitman, LLP  
5 465 Park Avenue  
6 New York, New York 10022  
7 (908) 303-4568  
8 hchaitman@chaitmanllp.com  
9

10 On Behalf of the Trustee:

11 DAVID J. SHEEHAN, Esq.  
12 AMANDA E. FEIN, Esq.  
13 Baker Hostetler  
14 45 Rockefeller Plaza  
15 New York, New York 10111-0100  
16 (212) 589-4621  
17 afein@bakerlaw.com  
18

19 On Behalf of the Deponent:

20 PETER A. GOLDMAN, Esq.  
21 12 Fairlawn Parkway  
22 Rye Brook, New York 10573  
23 (914) 935-6857  
24 pagoldman@gmail.com  
25

1 an unlimited right to sell naked shorts?

2 A. Correct.

3 Q. So was it illegal for you to send a  
4 statement say beginning in '94 or whenever you  
5 stopped buying the securities shown on the split  
6 strike, was it illegal for you to send a statement  
7 to a split strike customer that indicated that the  
8 customer owned certain Fortune 100 company stocks  
9 when you hadn't purchased them?

10 A. No. It was not illegal.

11 Q. Okay. So if it was not illegal for you to  
12 sell unlimited naked shorts, what was illegal about  
13 the split strike activity?

14 A. Well, what was illegal and what we did was  
15 not reflect our short positions to the clients on  
16 our audited financials.

17 Q. Because you had a debt to each client to  
18 whom you sold naked shorts --

19 A. Correct.

20 Q. -- in the amount -- the present value of  
21 those securities; is that correct?

22 A. Correct.

23 Q. And that was a fraud on anyone to whom you  
24 gave your financial statements; is that right?

25 A. Well, depends upon how you define fraud.

1 It was a bookkeeping violation. I don't think  
2 anybody initially would consider it a fraud. You  
3 know, that's -- well, I just don't know. I would  
4 say that it clearly was an SEC violation.

5 Q. And is it fair to say that the SEC reviewed  
6 the financial information that you submitted in your  
7 focus reports on a monthly basis?

8 A. Regularly, yes.

9 Q. And if you showed a massive debt to your  
10 customers, your investment advisory customers, what  
11 would they have done?

12 A. It would have been a violation. You  
13 probably would have been suspended.

14 Q. You would have been suspended as a broker?

15 A. Correct.

16 Q. Okay. So in your view was the crime simply  
17 that you didn't properly disclose the debt to your  
18 customers on your financial statements?

19 A. Correct.

20 Q. Now, you've testified this morning that you  
21 think either at the end of '93 or early '94 you  
22 stopped buying securities for your customers, and I  
23 just want to get a better understanding of why that  
24 occurred at that time. You had -- I think you said  
25 you made a commitment to your clients to put them in

1 review of the earliest records available to him, the  
2 Trustee has found no evidence indicating that the  
3 BLMIS investment advisory business has been operated  
4 as anything but a Ponzi scheme.

5 A. Right.

6 Q. Now, did anyone on behalf of the Trustee  
7 ever talk to you about the trades that you did in  
8 the 1980s?

9 A. No.

10 Q. Did the Trustee ever disclose to you that  
11 he, in fact, had some trading records from the  
12 1980s?

13 A. No.

14 Q. Now, when SIPC is using here the phrase  
15 Ponzi scheme, if you accept for a moment that a  
16 Ponzi scheme is a nonexistent business in which  
17 people invest where the sole source of paying  
18 returns on their investments is investments from new  
19 investors --

20 A. Uh-huh.

21 Q. -- on that definition was the split strike  
22 ever a Ponzi scheme? In other words, did you ever  
23 need new cash from new customers in order to redeem  
24 other customers?

25 A. No.

1       therefore, he said since the customer showed that,  
2       you know, balances in the account from transactions,  
3       he figured, okay, that was a liability that Madoff  
4       had. He totally eliminated the fact that I was  
5       doing business, you know, back in 1983 and so on.  
6       So, therefore, I had the assets to cover that.

7               So he said, well, he knew what the  
8       liabilities were because it was a customer  
9       statement. He had no way of knowing what the assets  
10      that I had were because he didn't have any records  
11      going back then. I mean, who would possibly make a  
12      statement like that? I mean, the biggest mistake I  
13      made was not going to trial.

14             Had I gone to trial rather than just  
15      saying okay, I'm going to eliminate the government  
16      spending millions of dollars and years in a trial  
17      with me, I'm just going to admit that I was guilty  
18      because I was from 1992 on, which was bad enough.  
19      You know, they for some reason, the Trustee wanted  
20      to determine that I was guilty from 1963.

21             All right. Had I gone to trial, I would  
22      have called in any number of expert witnesses like  
23      this Feingold or anything else and the judge would  
24      have totally laughed the Trustee out of court. Why  
25      he even bothered writing -- 90 percent of his report